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tended to evade the other technicalities of self-incrimination and corroboration. See *Commonwealth v. Willard*, 22 Pick. (Mass.) 476; *Trinkle v. State*, 59 Tex. Crim. 257, 127 S. W. 1060. It should not be disregarded for the sake of giving an obviously guilty defendant a new trial.

## BOOK REVIEWS

SHIPPERS AND CARRIERS OF INTERSTATE AND INTRASTATE FREIGHT. By Edgar Watkins, LL.B., of the Atlanta Bar. Atlanta, Ga.: The Harrison Company. 1920. 2 vols. pp. 1778.

These two handy, well-printed volumes present in convenient form and from the practical point of view the law of interstate shipping. They include a brief résumé of the case law of this particular phase of interstate commerce, together with a helpful discussion of the procedure before the Interstate Commerce Commission and that applicable in enforcing its orders and findings before the courts; an annotation of the acts regulating interstate commerce as amended by the Transportation Act of 1920; copies of various other federal statutes in so far as they affect interstate carriage of goods; and the conference rulings of the Interstate Commerce Commission.

A great deal of this material can be obtained at nominal expense from the government printing office, or from the commission, but there is value in its collection and correlation by an experienced practitioner in this field for the use of those traffic officials, railway counsel, and practicing lawyers who must have quickly available a survey of the whole subject.

The annotations to the acts regulating commerce cover a deal of space, being spread in the same print as the text over page after page, and appear to be simply copies of a busy lawyer's memoranda of citations, each introduced by a word or two of purported explanation, apparently without effort at generalization under common note headings.

The anti-trust acts are set forth, discussed, and annotated in a chapter entitled, "Trust and other Combinations in Restraint of Trade." The other federal statutes relating to interstate commerce seem to have been carefully selected and embodied, in whole or in part, in the form of appendices, including the Federal Control Act, Adamson Eight-Hour Law, Federal Trade Commission Act, United States Shipping Board Act, National Motor Vehicle Theft Act, and the National Prohibition Act. Unfortunately the citations of these acts in the United States Statutes at Large are not given.

The résumé of the case law of the subject is especially valuable in that it covers the Interstate Commerce Commission's decisions as well as those of the federal and, in a limited way, the state courts. Although the review of the cases seems exhaustive (the table of cases covers one hundred and seventeen pages) one, even in a hasty reading, notes the omission of an important decision here and there; for example, the case of *Arthur v. Texas and Pacific Railway*, 204 U. S. 505 (1907) relating to "Accessorial Services," and, under the discussion of the Federal Employers Liability Act, *Southern Pacific Railway v. Jensen*, 244 U. S. 205 (1917) defining the limits of said act and the meaning of the expression therein "Engaged in interstate commerce."

There is a good table of contents setting forth the subject matter of the eleven chapters in the words of the section headings, and a detailed general index.

The title of the work is somewhat misleading for, as the author states in his preface, the law relating to intrastate freight is discussed only as it bears, directly or indirectly, upon the principal subject, — interstate transportation

of goods. This is further exemplified by the designation of the chapter purporting to deal particularly with intrastate carriage: "State Regulation of Carriers Engaged in Interstate Commerce." Of course, the laws and regulations governing the two types of commerce overlap, perhaps more extensively than is generally appreciated; but even so, the coördination of intrastate freight with interstate freight in the title seems hardly justified by the content.

The author has occasionally written on his subject in the law periodicals, from which we may judge that he possesses a measure of legal perspective. For instance, he observes that a procedural point which he suggested to the commission had been adopted by it, and also points out that certain principles which he had unsuccessfully presented to his state court later prevailed in other cases in the Supreme Court of the United States. At intervals a paragraph of his text appears as written in previous editions followed by a new paragraph citing and quoting later decisions settling the law in accord with his view as expressed therein. These instances, however, are chiefly confined to points upon which the decisions were in conflict, the work as a whole containing no broad, general critique. It undertakes briefly to state the law as it is, or at most probably will be; not what it should be.

A vein of provincialism threads the book in an overaccentuation of the cases and opinions of the author's own Supreme Court of Georgia. Since of necessity there can be comparatively few references to state decisions upon a subject so peculiarly federal, it seems unfortunate that one jurisdiction, and that not one of the great commercial states, should be so emphasized.

This trait has produced, however, one very interesting although probably wholly un contemplated effect. In justification of governmental regulation of common carriers the author quotes from an opinion wherein the Georgia Supreme Court cites the Babylonian Code of Hammurabi as providing over two thousand years before Christ for government control of carriers and rates for public service. Again, in a later passage the author himself refers to this ancient authority, and adds "the same principle appears in the common law." This well-nigh unconscious flash of comparative historical jurisprudence seems strangely out of place in a practical handbook for shippers and carriers of interstate freight, yet it touches upon a fundamental juristic truth. Does it not carry to the thinking lawyer the message that the law has ever been ultimately as it is to-day, a product of the living actualities of the time and place, and as those fact situations tend to recur in successive civilizations, though thousands of years apart, so may there be a repetition of the jural postulates, springing independently from the similar *de facto* needs of the respective eras? In this connection it is of interest to note the Roman maxim — "*ex facto oritur lex.*"

The author treats with as little realization of the significance of his subject matter the principal common-law standards relating to common carriers, such as the obligations to render reasonable service, to charge reasonable rates, etc., although in general quite successfully by way of introductory paragraphs at the beginning of the chapters as the starting point for the discussion. There is no indication that he appreciates that these are legal standards of conduct, and that the general standard of reasonableness under the circumstances was the characteristic means by which the common law made itself readily adjustable to an ever-changing *de facto* situation.

This edition comes at a time of peculiar need in the field of interstate commerce, and is especially valuable, for the author has carefully reëdited his work with a view to the comprehensive Transportation Act of February 28, 1920. The book is well adapted to serve the end intended, that of providing a ready reference to the law as it is upon the more common problems arising in relation to the shipping of interstate freight.

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